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19 **UNITED STATES DISTRICT COURT**

20 **NORTHERN DISTRICT OF CALIFORNIA**

21 DELPHINE ALLEN, et al.,

22 Plaintiffs,

23 v.

24 CITY OF OAKLAND, et al.,

25 Defendants.

Master Case No.: C00-4599 TEH (JL)

**STIPULATION AND ORDER RE:  
DEFINING "FILED" AND  
"ADMINISTRATIVE CLOSURE"  
PURSUANT TO SECTION III.E.5 OF  
THE SETTLEMENT AGREEMENT**

[Honorable Thelton E. Henderson]

26  
STIPULATION AND ORDER RE:  
CHANGES TO LANGUAGE IN SECTION III.E.5  
OF THE SETTLEMENT AGREEMENT

C00-4599 TEH (JL)

**STIPULATION**

IT IS HEREBY STIPULATED by and between the parties that Section III. E. 5 (Task 5) is hereby amended as follows to reflect the removal of "Filed" and the addition of "Administrative Closure" to the dispositions category.

Section III, E.5. (Task 5), "Complaint Procedures for IAD" shall read as follows:

**OPD shall resolve each allegation in a complaint investigation using the "preponderance of the evidence" standard. Each allegation shall be resolved by making one of the following dispositions: Unfounded, Sustained, Exonerated, Not Sustained, or Administrative Closure. The Department shall use the following criteria for determining the appropriate disposition:**

- a. *Unfounded:* The investigation disclosed sufficient evidence to determine that the alleged conduct did not occur. This finding shall also apply when individuals named in the complaint were not involved in the alleged act.
- b. *Sustained:* The investigation disclosed sufficient evidence to determine that the alleged conduct did occur and was in violation of law and/or Oakland Police Department rules, regulations, or policies.
- c. *Exonerated:* The investigation disclosed sufficient evidence to determine that the alleged conduct did occur, but was in accord with law and with all Oakland Police Department rules, regulations, or policies.
- d. *Not Sustained:* The investigation did not disclose sufficient evidence to determine whether or not the alleged conduct occurred.
- e. *Administrative Closure:* The investigation indicates a service complaint, not involving an MOR violation, was resolved without conducting an internal investigation; OR

1 f. To conclude an internal investigation when it has been determined that the  
2 investigation cannot proceed to a normal investigative conclusion due to  
3 circumstances to include but not limited to the following:

- 4 1) Complainant wishes to withdraw the complaint and the IAD  
5 Commander has determined there is no further reason to  
6 continue the investigation and to ensure Departmental policy  
7 and procedure has been followed;  
8 2) Complaint lacks specificity and complainant refuses or is  
9 unable to provide further clarification necessary to investigate  
10 the complaint;  
11 3) Subject not employed by OPD at the time of the incident; or  
12 4) If the subject is no longer employed by OPD, the IAD  
13 Commander shall determine whether an internal investigation  
14 shall be conducted.

15 g. Administrative Closures shall be approved by the IAD Commander and  
16 entered in the IAD Complaint Database.

17  
18 The disposition category of "Filed" is hereby redefined and shall be included under  
19 Administrative Dispositions as follows:


20 **An investigation that cannot be presently completed. A**  
21 **filed investigation is not a final disposition, but an**  
22 **indication that a case is pending further developments that**  
**will allow completion of the investigation.**

23 **The IAD Commander shall review all filed cases quarterly**  
24 **to determine whether the conditions that prevented**  
25 **investigation and final disposition have changed and may**  
26 **direct the closure or continuation of the investigation.**

1 Dated: December 8, 2005

OAKLAND CITY ATTORNEY'S OFFICE

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3  
4 By:



ROCIO V. FIERRO, Attorneys for Defendant  
CITY OF OAKLAND

5  
6 Dated: December 8, 2005

RAINS, LUCIA & WILKINSON, LLP

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8  
9 By:

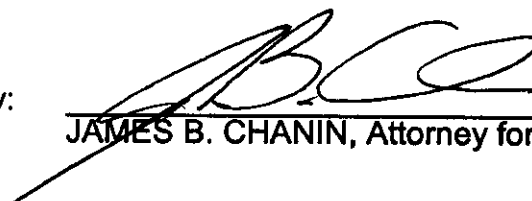


ROCKNE LUCIA, Attorney for Interveners  
OAKLAND POLICE OFFICERS ASSOCIATION

10  
11 Dated: December 8, 2005

LAW OFFICES OF JAMES B. CHANIN

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13  
14 By:

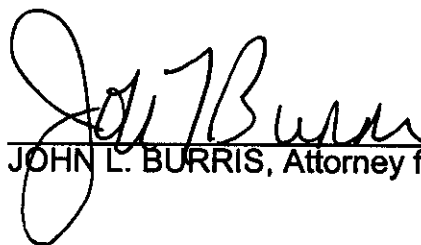


JAMES B. CHANIN, Attorney for Plaintiffs

15  
16 Dated: December 8, 2005

LAW OFFICES OF JOHN BURRIS

17  
18 By:



JOHN L. BURRIS, Attorney for Plaintiffs

**ORDER**

**IT IS HEREBY ORDERED** that Section ~~4~~ III.E. 5 of the Settlement Agreement approved by this Court on or about ~~December XX, 2005~~ <sup>Jan. 22, 2003</sup> ~~is~~ <sup>is</sup> hereby revised and modified, consistent with the terms of the Parties' Stipulation.

**IT IS SO ORDERED.**

Dated: 12/14/05



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THELTON E. HENDERSON  
JUDGE OF THE DISTRICT COURT

*I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this E-filed document.*  
*Dated: December 12, 2005.*

By: /s/ Gregory M. Fox  
Gregory M. Fox